



**COPY** *DAE*

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

PRUCHE, F. et al.

Atty. Ref.: 2365-35

Serial No. 10/069,460

TC/A.U.: 1616

Filed: June 11, 2002

Examiner: LAMM

For: PROCESS AND DEVICES FOR TREATING, ESPECIALLY FOR  
MAKING UP, FOR COLORING OR FOR THE COSMETIC CARE OF  
SOME OR ALL OF THE HUMAN OR ANIMAL BODY

\* \* \* \* \*

October 18, 2004

**Mail Stop Petition**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**PETITION TO REVIVE**  
**UNINTENTIONALLY ABANDONED APPLICATION PURSUANT TO 37 CFR §**  
**1.137(b)**

The entire delay in filing the required reply to the Office Action of April 7, 2004, from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR § 1.137 (b) was unintentional.

Attached is a reply to the Office Action dated April 7, 2004, including a Request for Continued Examination (RCE) as required by 37 C.F.R. § 1.137(b)(1).

The petition fee required by 37 C.F.R. § 1.137(b)(2) is attached.

The above statement is submitted, pursuant to 37 C.F.R. § 1.37(b)(3). The undersigned notes that the applicants intended to file the attached Amendment, RCE and Information Disclosure Statement, however through inadvertent and unintended error by the undersigned, the attached were not filed on October 7, 2004. The

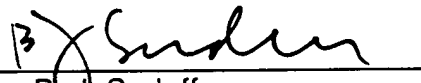
undersigned notes that 37 C.F.R. § 1.37(b) does not appear to require a petition for extension of time or extension fee however the Patent Office is authorized by the attached transmittal cover sheet to charge the undersigned's Deposit Account No. 14-1140 for any required fees.

Having met all of the requirements set forth in 37 C.F.R. § 1.137(b), it is respectfully requested that the above identified application be revived, and forwarded to the Examiner for action on the attached.

The Office is requested to contact the undersigned in the event anything further is required for grant of the present Petition.

Respectfully submitted,

**NIXON & VANDERHYTE P.C.**

By:   
B.J. Sadoff  
Reg. No. 36,663

BJS:  
1100 North Glebe Road, 8th Floor  
Arlington, VA 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

PRUCHE, F. et al.

Atty. Ref.: 2365-35; Confirmation No. 3379

Appl. No. 10/069,460

TC/A.U. 1616

Filed: June 11, 2002

Examiner: LAMM

For: PROCESS AND DEVICES FOR TREATING"

\* \* \* \* \*

March 7, 2005

**MAIL STOP PETITIONS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

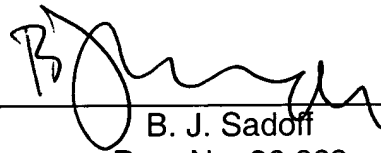
**STATUS REQUEST**

The attached Petition, Amendment, RCE and IDS were filed on October 18, 2004. To date, the undersigned has not received a reply from the Patent Office. The Office is requested to advise the undersigned of the status of the Petition and attachments filed October 18, 2004.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_

  
B. J. Sadoff  
Reg. No. 36,663

BJS:pp

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Atty Dkt. 2365-35

C# M#

MUCHE, F. et al.

C/A.U.

1616

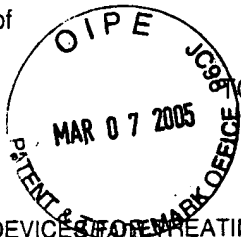
Serial No. 10/069,460

Examiner: LAMM

Filed: June 11, 2002

Date: October 18, 2004

Title: PROCESS AND DEVICES FOR TREATING, ESPECIALLY FOR MAKING UP, FOR  
COLORING OR FOR THE COSMETIC CARE OF SOME OR ALL OF THE HUMAN  
OR ANIMAL BODY

**COPY**

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**PETITION UNDER 37 CFR 1.137(b), RCE, AMENDMENT, INFORMATION DISCLOSURE STATEMENT**

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

☒ **Correspondence Address Indication Form Attached.****Fees are attached as calculated below:**

Total effective claims after amendment 0 minus highest number  
previously paid for 20 (at least 20) = 0 x \$ 18.00 \$ 0.00

Independent claims after amendment 0 minus highest number  
previously paid for 3 (at least 3) = 0 x \$ 88.00 \$ 0.00

If proper multiple dependent claims now added for first time, add \$300.00 (ignore improper) \$ 0.00

Petition is hereby made to extend the current due date so as to cover the filing date of this  
paper and attachment(s) (\$110.00/1 month; \$430.00/2 months; \$980.00/3 months) \$ 0.00

Terminal disclaimer enclosed, add \$ 110.00 \$ 0.00

☐ First/second submission after Final Rejection pursuant to 37 CFR 1.129(a) (\$790.00) \$ 0.00

☐ Please enter the previously unentered, filed

☐ Submission attached

**Subtotal \$ 0.00**

If "small entity," then enter half (1/2) of subtotal and subtract -\$ 0.00

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee (\$180.00) \$ 0.00

Assignment Recording Fee (\$40.00) \$ 0.00

Other: RCE fee (\$790) and Rule 17(m) fee (\$1370) 2160.00

**TOTAL FEE ENCLOSED \$ 2160.00**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

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Arlington, Virginia 22201-4714  
Telephone: (703) 816-4000  
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BJS:

NIXON & VANDERHYE P.C.  
By Atty: B. J. Sadoff, Reg. No. 36,663

Signature: 

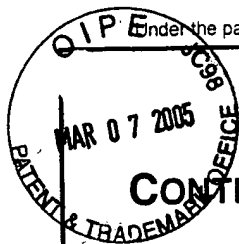
# Mail Stop RCE

Modified PTO/SB/30 (08-00)

Approved for use through 10/31/2002, OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



## REQUEST

FOR

## CONTINUED EXAMINATION (RCE) TRANSMITTAL

Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000, provides for continued examination of an utility or plant application filed on or after June 8, 1995

See The American Inventors Protection Act of 1999 (AIPA).

Application Number

10/069,460

Filing Date

June 11, 2002

First Named Inventor

Pruche

Group Art Unit

1616

Examiner Name

LAMM

Attorney Docket Number

2365-35

**COPY**

This is a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 of the above-identified application.

**NOTE:** 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53(d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application Practice, Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47 (Apr. 11, 2000), which established RCE practice.

### 1. Submission required under 37 C.F.R. § 1.114

a. ☐ Previously submitted

i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on \_\_\_\_\_  
(Any unentered amendment(s) referred to above will be entered)

ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_

iii. ☐ Other \_\_\_\_\_

b. ☒ Enclosed

i. ☒ Amendment/Reply

ii. ☒ Information Disclosure Statement (IDS)

iii. ☒ Other Petition to Revive Unintentionally Abandoned Application Pursuant to 37 CFR § 1.137(b),  
Petition Cover Sheet (2 copies) and certified copy of priority document (FR 0008176)

### 2. Miscellaneous

a. ☐ Suspension of action on the above-identified application is requested under 35 C.F.R. § 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required)

b. ☐ Other \_\_\_\_\_

### 3. Fees The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed.

a. ☐ Applicant claims "small entity" status.

b. ☒ Fees are attached as calculated below:

i. ☒ RCE fee required under 37 C.F.R. § 1.17(e) \$ 790.00

ii. ☐ Petition is made to extend the due date \_\_\_\_\_ months (less \_\_\_\_\_ months previously paid) \$

iii. ☒ Other Rule 17(m) fee \$ 1370.00

c. ☒ Check in the amount of \$2160.00 enclosed

d. ☒ The Director is hereby authorized to charge any deficiency in the fee(s) filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm), to Deposit Account No. 14-1140

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print Type)

B. J. Sadoff

Registration No. (Attorney/Agent)

36,663

Signature

Date

October 18, 2004

### CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on:

Name (Print Type)

Signature

Date

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND Fees and Completed Forms to the following address: Commissioner for Patents, Box RCE, P.O. Box 1450, Alexandria, VA 22313-1450.



**COPY**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

PRUCHE, F. et al.

Atty. Ref.: 2365-35; Confirmation No. 3379

Appl. No. 10/069,460

TC/A.U. 1616

Filed: June 11, 2002

Examiner: LAMM

For: PROCESS AND DEVICES FOR TREATING, ESPECIALLY FOR MAKING UP,  
FOR COLORING OR FOR THE COSMETIC CARE OF SOME OR ALL OF THE  
HUMAN OR ANIMAL BODY

\* \* \* \* \*

October 18, 2004

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**AMENDMENT**

Responsive to the Official Action dated April 7, 2004, entry of the following amendments and remarks are requested along with the attached Request for Continued Examination (RCE). Return of an initialed copy of the attached PTO 1449 Form, pursuant to MPEP § 609, is requested.

**AMENDMENTS TO THE CLAIMS:**

Amend the claims as follows:

1. (Currently Amended) A process for treating at least a part of the human body, by applying at least two treatment products simultaneously to a localized area of said part of the human body as a function of characteristics of the localized area and/or of a predetermined design, in order to obtain a mixture of said treatment products directly on the localized area said mixture being produced in real time and on the site at which it is to be applied, a chosen coloration or make up design image taking into account the characteristics of the part to be treated being viewed prior to said applying~~said treating being viewed on a support other than said localized area prior to said applying.~~

2. (Original) The process as claimed in claim 1, in which the application of several treatment products is performed by jet.

3. (Original) The process as claimed in claim 2, in which at least one jet is produced by a thermal means capable of forming bubbles of treatment product.

4. (Previously Presented) The process as claimed in claim 2, in which at least one jet is produced by a piezoelectric means.

5. (Previously Presented) The process as claimed in claim 2, in which at least one jet is deflected.

6. (Previously Presented) The process as claimed in claim 1, in which at least one of the treatment products comprises at least one solvent in a proportion of at least 10% by weight.

7. (Previously Presented) A device for carrying out the process as claimed in claim 1, characterized in that it comprises a means for positioning said part of the human body, and a means for applying treatment products to said part as a function of a predetermined design.

8. (Original) The device as claimed in claim 7, characterized in that the application means comprises a plurality of treatment product reservoirs and a plurality of spraying nozzles, each nozzle being fed by a reservoir.

9. (Previously Presented) The device as claimed in claim 7, characterized in that the application means comprises at least two reservoirs and/or at least two nozzles.

10. (Previously Presented) The device as claimed in claim 7, characterized in that it comprises means for controlling the position of the application means relative to the part of the area to be treated.

11. (Previously Presented) The device as claimed in claim 7, characterized in that it comprises means for automatic control of the total amount and of the partial amounts of each product as a function of the desired visual characteristics.



12. (Previously Presented) The process of claim 1 wherein said treating comprises at least one of caring for, making up or coloring at least a part of the human body.

13. (Currently Amended) A process for treating at least a part of the human body by applying at least two treatment products simultaneously to a localized area of said part of the human body as a function of characteristics of the localized area and/or of a predetermined design, in order to obtain a mixture of said treatment products directly on the localized area, said mixture being produced in real time and on the part at which it is to be applied, a step of viewing a chosen coloration or make-up design image taking into account the characteristics of the part to be treated taking ~~taking~~ place before any treatment product is applied.

14. (Currently Amended) A process for treating at least a part of the human body by applying at least two treatment products simultaneously to a localized area of said part of the human body as a function of characteristics of the localized area and/or of a predetermined design, in order to obtain a mixture of said treatment products directly on the localized area, said mixture being produced in real time and on the part at which it is to be applied, a step of viewing a chosen coloration or make-up design image taking into account the characteristics of the part to be treated taking place before caring for or making up products are applied.

15. (Previously Presented) The process of claim 13 wherein said treating comprises at least one of caring for, making up or coloring at least one part of the human body.

Claim 16. (Canceled)

17. (new) The process according to claim 14, wherein said applying is made according to a calculation of the instantaneous amounts of each product for each elementary area of the part to be treated as a function of the characteristics of said elementary area.

18. (new) The process according to claim 13, wherein said applying is made according to a calculation of the instantaneous amounts of each product for each elementary area of the part to be treated as a function of the characteristics of said elementary area.

19. (new) The process according to claim 1, wherein said applying is made according to a calculation of the instantaneous amounts of each product for each elementary area of the part to be treated as a function of the characteristics of said elementary area.

**REMARKS**

Reconsideration is requested.

Claim 16 has been canceled above, without prejudice. Claims 17-19 have been added and find support, for example, on page 15, lines 10-20 of the specification. No new matter has been added.

Claims 1-15 and 17-19 are pending.

The present application has become unintentionally abandoned for failure to file the present response and attached RCE by the October 7, 2004 due date.

A Petition to revive the application pursuant to 37 CFR § 10137(b) is attached along with the requisite petition fee is attached.

The entire delay in filing the required reply to the Office Action of April 7, 2004, from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR § 1.137 (b) was unintentional.

Grant of the attached Petition, entry of the present Amendment and attached RCE and return of an initialed copy of the attached PTO 1449 Form, pursuant to MPEP § 609, are requested.

The Examiner's indication that a certified copy of the priority document has not been received by the Patent Office is noted. While the applicants believe it is the responsibility of the Patent Office to obtain a certified copy of the priority document from the International Bureau, pursuant to PCT Rule 17.2, a further certified copy of the priority document is attached hereto. The Examiner is requested to acknowledge receipt of same in the Examiner's next Communication.

Claim 16 has been canceled above, making moot the Rule 75 objection of same.

Claim 1 has been amended to obviate the Section 112, first paragraph, rejection of claim 1. Reconsideration and withdrawal of the Section 112, first paragraph, rejection of claim 1 are requested.

The above amendments are submitted to obviate the Section 112, second paragraph, rejection of claims 1-12 and withdrawal of the Section 112, second paragraph, rejection is requested.

The Section 102 rejection of Claims 1, 6 and 12 over Suares (U.S. Patent No. 5,612,044), is obviated by the above amendments. The claims are submitted to be patentable over the cited patent. The applicants submit that the Examiner's interpretation of "as a function of the characteristics of the localized area" is in contradiction with the definition provided in the specification at, for example, page 3, lines 2-10. Clarification of the Examiner's position is requested in the event the rejection is maintained. Withdrawal of the Section 102 rejection of claims 1, 6 and 12 over Suares is requested.

The Section 102 rejection of claims 1, 2, 5 and 7-16 and Section 103 rejection of claims 3, 4 and 6 over Weber (U.S. Patent No. 6,341,831), are obviated by the above amendments. The applicants believe that the cited art does not teach or suggest, for example, the selection of a coloration or makeup design image taking into account the characteristics of the part to be treated, as presently claimed. Withdrawal of the Section 102 and Section 103 rejections of the noted claims over Weber is requested.

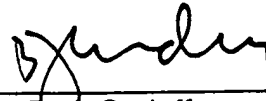
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The claims are submitted to be in condition for allowance and a Notice to that effect is requested. The Examiner is requested to contact the undersigned in the event anything further is required in this regard.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_



B.J. Sadoff  
Reg. No. 36,663

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# BREVET D'INVENTION

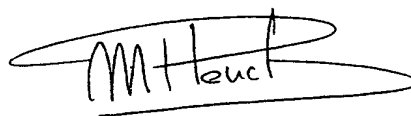
CERTIFICAT D'UTILITÉ - CERTIFICAT D'ADDITION

## COPIE CERTIFIÉE CONFORME

Le Directeur général de l'Institut national de la propriété industrielle certifie que le titre de propriété industrielle, correspondant à la demande ci-annexée, a été délivré le 07 mai 2004

Fait à Paris le 16 AOÛT 2004

Pour le Directeur général de l'Institut  
national de la propriété industrielle  
Le Chef du Département des brevets



Martine PLANCHE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

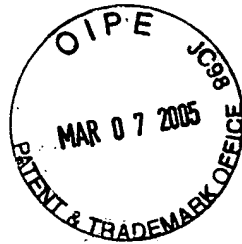
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PRUCHE, F. et al.

Serial No. 10/069,460

Filed: June 11, 2002



Atty. Ref.: 2365-35

Group: 1616

Examiner: LAMM

For: PROCESS AND DEVICES FOR TREATING, ESPECIALLY  
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OR ANIMAL BODY

\* \* \* \* \*

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

October 18, 2004

Sir:

**INFORMATION DISCLOSURE STATEMENT**

- ☒ 1. **PTO-1449 Pursuant to 37 CFR 1.97(b)**  
[within 3 months of filing or prior to 1st Office Action on the merits]  
N/C
- ☐ 2.(a) **Statement Pursuant to 37 CFR 1.97(c)**  
[before Final Office Action or Allowance (requires Rule 97(e)  
Statement or Rule 17(p) fee)]  
N/C
- ☐ 2.(b) **Fee Payment Pursuant to 37 CFR 1.97(c)**  
[before Final Office Action or Allowance (requires Rule 97(e)  
Statement or Rule 17(p) fee)]  
\$180.00
- ☐ 3. **Pursuant to 37 CFR 1.97(d)**  
[after Final Office Action or Allowance (requires Rule 97(e)  
Statement and Rule 17(p) fee), but before final fee payment]  
\$180.00

The following are submitted in the above-identified application in compliance with  
37 C.F.R. §§ 1.97 and 1.98:

- ☒ 4. A list of documents on Form PTO-1449 together with copies of each identified document. The cited documents were cited in an Office Action from the EPO dated March 26, 2004 in a related application. The cited JP document has been considered in so far as a Derwent publication was previously cited in the International Search Report. See, PTO 1449 Form signed by the Examiner on 7/12/03. An English translation of the cited Japanese patent is attached. The cited German language "Kosmetic" document was cited in the same EPO Office Action as document D4 with the following comments from the EPO Examiner as to the alleged relevance of the document (translation provided by the assignee's overseas agent): "Moreover, as shown in the document D4 introduced by the Examining Division that is an extract of the general handbook Kosmetic, the composition of the type nail varnish that could be used in the state of the art D1-D3 [ i.e., U.S. Patent No. 5,931,166, DE 195 26 650 and JP 11056452, respectively], the hair colouring compositions, the self tanning compositions, the bleaching composition .... generally comprise more than 10% solvents by weight."

This paper is submitted in accordance with:

- ☒ 5. 37 CFR 1.97(b): [within 3 months of filing or prior to 1st Office Action]
- ☐ 6. 37 CFR 1.97(c): [before Final Office Action or Allowance, whichever is earlier]; and
- ☐ a) The required Statement made in item 8 below; or
- ☐ b) The \$180.00 fee specified in 37 CFR §1.17(p) for submission of this Information Disclosure Statement is authorized in item 9 below.
- ☐ 7. 37 CFR §1.97(d): [after Final Office Action or Allowance (requires Rule 97(e) Statement and Rule 17(p) fee), but before final fee payment]; and
- ☐ a) The fee (\$180.00) required by 37 CFR §1.17(p) is submitted herewith; and
- ☐ b) The required Statement is stated in item 8 below.
- ☐ 8. Statement under 37 CFR 1.97(e)
- ☐ a) The undersigned attorney of record hereby certifies under 37 C.F.R. §1.97(e) that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement (each



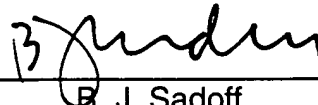
item contained in this IDS was the first citation of that item by a foreign patent office in a counterpart foreign application which occurred no more than three months prior to the filing of this IDS); or

- ☐ b) No item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this Statement, after making reasonable inquiry, no item of information contained in this Statement was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

- ☒ 9. Please charge all deficiency fees associated with the submission of this Information Disclosure Statement and any other fees applicable to this application to Deposit Account No. 14-1140. An original and one (1) copy of this document are enclosed.

Respectfully submitted,  
NIXON & VANDERHYE P.C.

By: \_\_\_\_\_

  
B. J. Sadoff

Reg-No. 36,663

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